

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

SHANA KONEY and RONALD CONEY,

Plaintiffs,

v.

SUBURBAN ELEVATOR CO.

Defendant.

No.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1441 and 1446, Suburban Elevator Co., Defendant, (hereafter referred to as “Suburban Elevator”), hereby removes to the United States District Court for the Northern District of Indiana, Hammond Division, the state court action, Case No. 45C01-1908-CT-000836 in the Circuit Court of Lake County, Indiana described below. The basis for removal is diversity jurisdiction pursuant to 28 U.S.C. § 1332:

I. INTRODUCTION

1. Plaintiffs, Shana Koney and Ronald Koney, (“Plaintiffs”) filed their First Amended Complaint alleging a cause of action for negligence against Defendant, Suburban Elevator, on March 19, 2020. (*See* Plaintiffs’ First Amended Complaint attached hereto as Exhibit "A").

2. Suburban Elevator was served on March 23, 2020, (*See* March 23, 2020, Notice of Service of Process on Suburban Elevator attached hereto as Exhibit "B").

3. The time has not yet elapsed within which Suburban Elevator is permitted to remove this action, and therefore this Notice of Removal is filed in a timely manner. 28 U.S.C. § 1446(b).

4. The United States District Court for the Northern District of Indiana, Hammond Division has jurisdiction over this action under 28 U.S.C. § 1332, and this action is removable under 28 U.S.C. § 1441(b) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

5. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, orders and papers or exhibits filed in the Circuit Court of Lake County, Indiana are appended to this Notice as Exhibit "C" (excluding Plaintiffs' First Amended Complaint, attached as Exhibit "A".)

6. Venue is proper in this district, under 28 U.S.C. § 1446(a), because this district embraces the place in which the removed action is pending.

7. Written notice of the filing of the Notice of Removal will be promptly served on Plaintiffs' counsel and a copy will be filed promptly with the Circuit Court of Lake County, Indiana pursuant to 28 U.S.C. § 1446(d). (*See* a copy of the Notice of Filing of this Notice of Removal to Federal Court is attached hereto as Exhibit "D").

II. DIVERSITY OF CITIZENSHIP EXISTS

8. Pursuant to 28 U.S.C. § 1332(a)(1), diversity of citizenship exists because Plaintiffs and Defendants are citizens of different states. As set forth below, diversity of citizenship exists because: (a) Plaintiffs are citizens of Indiana; and (b) Defendant is a citizen of a different state than Plaintiffs.

9. Citizenship and the removability of an action is determined at the time the removal petition is filed. *In re Burlington N. Santa Fe Ry. Co.*, 606 F.3d 379, 380 (7th Cir. 2010); *In re Shell Oil*, 970 F.2d 355, 356 (7th Cir. 1992).

A. Plaintiffs are Citizens of Indiana.

10. For purposes of federal diversity jurisdiction, the state citizenship of a natural person is determined by the state where the person is domiciled, meaning the state where the person is physically present with the intent to remain there. *See Denlinger v. Brennan*, 87 F.3d 214, 216 (7th Cir. 1996); *Perry v. Pogemiller*, 16 F.3d 138, 140 (7th Cir. 1993). In determining domicile, courts look to a variety of factors such as current residence, location of belongings and personal property, voter registration, driver's license and vehicle registrations among other things. *24 Hour Fitness USA, Inc. v. Bally Total Fitness Holding Corp.*, 2008 U.S. Dist. LEXIS 84374, at *11 (N.D. Ill. October 21, 2008) (citing *Sadat v. Mertes*, 615 F.2d 1176, 1181 (7th Cir. 1980)).

11. In this case, Plaintiffs state in their First Amended Complaint that they reside in Valparaiso, Indiana. (*See* Exhibit A, par. 1). Accordingly, the Complaint demonstrates Plaintiffs' presence and intent to remain in Indiana.

B. Defendant is a Citizen of a Different State than Plaintiffs.

12. For diversity purposes, the citizenship of a corporation, is the state where the corporation is incorporated and the state where the corporation has its principal place of business, meaning the state where the corporation maintains its headquarters or "nerve center." *See* 28 U.S.C. § 1332(c)(1); *Hertz Corp. v. Friend*, 130 S. Ct. 1181, 1192-95, 175 L. Ed. 2d 1029 (2010); *CCC Info. Servs., Inc. v. American Salvage Pool Ass'n*, 230 F.3d 342, 346 (7th Cir.

2000); *Wisconsin Knife Works v. National Metal Crafters*, 781 F.2d 1280, 1282 (7th Cir. 1986); *Nuclear Eng'g Co. v. Scott*, 660 F.2d 241, 250 (7th Cir. 1981).

13. Suburban Elevator is not from the same state as Plaintiffs and therefore complete diversity exists. Suburban Elevator is a citizen of the state of Illinois (incorporated) and state of Illinois (headquartered). (See Suburban Elevator's Affidavit, attached hereto as Exhibit "E"). Plaintiffs' counsel is aware of this as Suburban Elevator was served at its headquarters in Illinois.

III. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

14. Federal diversity jurisdiction also requires that an amount in excess of \$75,000, exclusive of interest and costs, be in controversy. See 28 U.S.C. § 1332(a)(1); *LM Ins. Corp. v. Spaulding Enters. Inc.*, 533 F.3d 542, 547 (7th Cir. 2008). When a complaint does not state the amount in controversy and it pleads in excess of the jurisdictional minimum, a complaint's statements regarding severe and permanent damages demonstrate that the amount in controversy exceeds \$75,000. See, e.g. *Campbell v. Bayou Steel Corp.*, 338 F. Supp. 2d 896, 901 (N.D. Ill. 2004); *Gallo v. Homelite Consumer Prods.*, 371 F. Supp. 2d 943, 948 (N.D. Ill. 2005). "Courts have routinely held that when plaintiffs allege serious, permanent injuries and significant medical expenses, it is obvious from the face of the complaint that the plaintiffs' damages exceeded the jurisdictional amount." *McCoy v. GMC*, 226 F. Supp. 2d 939, 941 (N.D. Ill. 2002).

15. In the negligence action *Campbell v. Bayou Steel*, the court held that the defendants untimely removed the action after the plaintiff's deposition and reasoned that the defendants could have ascertained that the plaintiff would incur at least \$75,000 in medical bills because the complaint stated that the plaintiff suffered "severe and permanent injuries, and was forced to, and will continue to seek extensive medical treatment in an attempt to be healed and cured of his maladies." *Campbell*, 338 F. Supp. 2d at 902-03.

16. In *McCoy v. General Motors*, the court found that removability regarding the amount in controversy was obvious from the complaint's allegations because the plaintiffs alleged that they suffered:

'lasting and permanent injuries' and incurred bills related to 'medical, surgical, hospital, and nursing care for their injuries'...'[lost] wages and profits which they otherwise would have earned and acquired'...'severe pain, emotional distress, disability, lost value and enjoyment of life, future loss of income, medical expenses, loss of normal life, disfigurement and paralysis.'

McCoy, 226 F. Supp. 2d at 941. The court stated that "these statements should sound warning bells in defendants' ears that significant damages are sought." *Id.*

17. In *Gallo v. Homelite Consumer Products*, the court held that the complaint clearly showed that damages exceeded \$75,000 because it claimed that the plaintiff suffered severe burns, "severe and permanent injuries of a personal and pecuniary nature" and injuries resulting in extensive hospitalization and medical treatment, great pain...disability and disfigurement." *Gallo*, 371 F. Supp. 2d at 948.

18. In the *Andrews v. E.I. du Pont de Nemours & Co.* negligence personal injury action, the Seventh Circuit held that the defendant corporation established by a preponderance of the evidence that the amount in controversy exceeded \$75,000 and reasoned that the complaint alleged that the plaintiff suffered "severe and permanent" injuries, past and future medical expenses, past and future lost wages.

19. Plaintiffs state in their First Amended Complaint that Plaintiff Shana Koney suffered "severe and permanent injuries," past and future medical expenses, past and future lost wages, physical pain, disability, disfigurement, and also seeks punitive damages. (*See* Exhibit "A," par. 10-11; 16-17).

20. Plaintiffs' counsel also advised Mark C. Galasso, an attorney for Suburban Elevator in Illinois, that Plaintiff is making a post traumatic stress disorder claim and that Plaintiff has been off of work as a result of her alleged injuries since the date of the alleged occurrence. (*See* Affidavit of Mark C. Galasso, attached hereto as Exhibit "F").

21. Accordingly, Plaintiffs' claimed damages for past and future medical and hospital expenses, past and future wage loss, and past and future pain, suffering and disability clearly demonstrate that the amount in controversy exceeds \$75,000.

WHEREFORE, further proceedings in this action should be discontinued, and this action shall be removed to the United States District Court for the Northern District of Indiana, Hammond Division.

Respectfully submitted,

TRIBLER ORPETT & MEYER, P.C.

s/ Stephen S. Weiss

One of Defendant's attorneys

Stephen S. Weiss – ARDC #6226350
TRIBLER ORPETT & MEYER, P.C.
225 West Washington Street, Suite 2550
Chicago, Illinois 60606
(312) 201-6400

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Notice of Removal was served upon:

Beth Brown Nowak
Kelly Law Offices LLC
5521 West Lincoln Highway
Suite 101
Crown Point, IN 46307
bbn@kelly-lawyers.com

service was accomplished by electronically mailing a copy to the above-named attorney or party of record at the address listed above, on the 20th day of April, 2020.

s/Stephen S. Weiss
an Attorney

EXHIBIT A

STATE OF INDIANA)	
) SS:	IN THE LAKE CIRCUIT COURT
COUNTY OF LAKE)	CROWN POINT, INDIANA
SHANA KONEY and RONALD KONEY,)	
)	
Plaintiffs,)	
)	
vs.)	Cause Number: 45C01-1908-CT-000836
)	
SUBURBAN ELEVATOR CO.,)	
)	
Defendant.)	

FIRST AMENDED COMPLAINT

Count I

Plaintiffs, Shana and Ronald Koney, by counsel, for Count I of their Complaint against the Defendant, Suburban Elevator Co., state:

1. At all relevant times, Plaintiffs, Shana Koney and Ronald Koney were citizens and residents of Valparaiso, Indiana.
2. Suburban Elevator Co. is a foreign for-profit corporation doing business in Indiana.
3. On August 2, 2018, there existed a building located at 2600 W. 93rd Ave., Crown Point, Indiana 46307, in which Lake County Community Corrections operated.
4. On that date, Suburban Elevator Co. operated, managed, maintained, repaired and controlled the automatic elevator located on the premises.
5. On that date, Plaintiff Shana Koney was lawfully on the premises acting in the course and scope of her employment with Lake County and Lake County Community Corrections.

6. On that date, while Plaintiff Shana Koney was a passenger, the automatic elevator malfunctioned and did not operate property, creating a dangerous condition.

7. Defendant Suburban Elevator Co. knew or should have known of the condition of the elevator and knew or should have known it was a hazardous condition.

8. Defendant Suburban Elevator Co. had direct or constructive notice of the dangerous and hazardous condition.

9. Suburban Elevator Co., by and through its agents and/or employees, failed to act in a reasonable manner and were negligent and/or willful and wanton, causing severe and permanent injuries to Shana.

10. As a direct and proximate result of Defendant's negligence and/or willful and wanton acts or omissions, Shana sustained severe and permanent injuries.

11. As a proximate result of Defendant's negligence and/or willful and wanton acts or omissions, Shana suffered permanent and severe personal injuries, has incurred medical expenses and will continue to incur additional medical expenses for the foreseeable future, suffered and will continue to suffer physical pain, mental suffering, disability, disfigurement, terror, fright, humiliation, loss of enjoyment of life, has lost earnings from her employment and sustained an impairment of her ability to earn wages in the future, and has sustained other permanent injuries and damages of a personal and pecuniary nature.

WHEREFORE, Plaintiffs, Shana Koney and Ronald Koney, respectfully request judgment in their favor and against the Defendant, Suburban Elevator Co., for compensatory

and punitive damages, for the costs of this action, prejudgment interest, and for all other just and proper relief.

/s/ Beth Brown Nowak
Beth Brown Nowak, Attorney for
Plaintiffs, Atty. No.: 24108-64

Count II

Plaintiffs, **Shana and Ronald Koney**, by counsel, for Count II of their Complaint against the Defendant, Suburban Elevator Co., state the following:

12. Plaintiffs incorporate by reference paragraphs 1-11 of Count I of their Complaint as and for paragraph 12 of Count II of their Complaint.

13. At all relevant times, the elevator was under the exclusive care, control and/or management of Suburban Elevator Co.

14. On August 2, 2018, while a passenger in the elevator, Shana Koney, was under the exclusive care, control and/or management of Suburban Elevator Co.

15. In the normal course of events, an automatic elevator does not suddenly drop to the ground abruptly in a free-fall, all while under the care, control and/or management of Suburban Elevator Co.

16. As a direct and proximate result of the foregoing acts and/or omissions, Shana sustained severe and permanent injuries.

17. As a proximate result of the foregoing acts and/or omissions, Shana suffered permanent and severe personal injuries, has incurred medical expenses and will continue to incur additional medical expenses for the foreseeable future, suffered and will continue to suffer physical pain, mental suffering, disability, disfigurement, terror, fright, humiliation, loss of

enjoyment of life, has lost earnings from her employment and sustained an impairment of her ability to earn wages in the future, and has sustained other permanent injuries and damages of a personal and pecuniary nature.

WHEREFORE, Plaintiffs, Shana Koney and Ronald Koney, respectfully request judgment in their favor and against the Defendant, Suburban Elevator Co., for compensatory and punitive damages, for the costs of this action, prejudgment interest, and for all other just and proper relief.

/s/ Beth Brown Nowak
Beth Brown Nowak, Attorney for
Plaintiffs, Atty. No.: 24108-64

Count III

Plaintiffs, Shana and Ronald Koney, by counsel, for Count III of their Complaint against the Defendant, Suburban Elevator Co., state the following:

18. Plaintiffs incorporate by reference paragraphs 1-17 of Count II of their Complaint as and for paragraph 18 of Count III of their Complaint.

19. At all relevant times, Shana Koney and Ronald Koney were lawfully wedded husband and wife.

20. As a result of the negligence of the Defendant, Plaintiff Ronald Koney was denied the love, society and companionship of his wife, Shana, for an indefinite period of time.

WHEREFORE, Plaintiffs, Shana Koney and Ronald Koney, respectfully request judgment in their favor and against the Defendant, Suburban Elevator Co., for compensatory

and punitive damages, for the costs of this action, prejudgment interest, and for all other just and proper relief.

/s/ Beth Brown Nowak
Beth Brown Nowak, Attorney for
Plaintiffs, Atty. No.: 24108-64

KELLY LAW OFFICES LLC
5521 West Lincoln Highway
Suite 101
Crown Point, Indiana 46307
Telephone: (219) 791-0606
Email: bbn@kelly-lawyers.com

CERTIFICATE OF SERVICE

I certify that on March 19, 2020, I electronically filed the foregoing document using the Indiana E-Filing System (IEFS) and that the foregoing pleading or paper was made upon each party or attorney of record via the Indiana E-Filing System.

Kelly Law Offices LLC

By: /s/ Beth Brown Nowak
5521 West Lincoln Highway, Suite 101
Crown Point, Indiana 46307
Telephone: (219) 791-0606

EXHIBIT B



Notice of Service of Process

Transmittal Number: 21328694
Date Processed: 03/25/2020

Primary Contact: Susan Hirsch
Benjamin, Gussin & Associates, A Professional Corporation (BGA)
801 Skokie Blvd
Ste 100
Northbrook, IL 60062

Entity:	Suburban Elevator Co. Entity ID Number 3851502
Entity Served:	Suburban Elevator Co.
Title of Action:	Shana Koney vs. Suburban Elevator Co.
Document(s) Type:	Summons/Complaint
Nature of Action:	Personal Injury
Court/Agency:	Lake County Circuit Court, IN
Case/Reference No:	45C01-1908-CT-000836
Jurisdiction Served:	Indiana
Date Served on CSC:	03/23/2020
Answer or Appearance Due:	23 Days
Originally Served On:	CSC
How Served:	Certified Mail
Sender Information:	Beth Brown Nowak 219-791-0606

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

EXHIBIT C

(Supply information for additional attorneys on continuation page.)

IMPORTANT: Each attorney specified on this appearance:

- (a) certifies that the contact information listed for him/her on the Indiana Supreme Court Roll of Attorneys is current and accurate as of the date of this Appearance;
- (b) acknowledges that all orders, opinions, and notices from the court in this matter that are served under Trial Rule 86(G) will be sent to the attorney at the email address(es) specified by the attorney on the Roll of Attorneys regardless of the contact information listed above for the attorney; and
- (c) understands that he/she is solely responsible for keeping his/her Roll of Attorneys contact information current and accurate, see Ind. Admis. Disc. R. 2(A).

Attorneys can review and update their Roll of Attorneys contact information on the Courts Portal at <http://portal.courts.in.gov>.

- 3. This is a CT case type as defined in administrative Rule 8(B)(3).
- 4. This case involves child support issues. Yes No ✓ *(If yes, supply social security numbers for all family members on a separately attached document filed as confidential information on **light green paper**. Use Form TCM-TR3.1-4.)*
- 5. This case involves a protection from abuse order, a workplace violence restraining order, or a no – contact order. Yes No ✓ *(If Yes, the initiating party must provide an address for the purpose of legal service but that address should not be one that exposes the whereabouts of a petitioner, on continuation page.)*
- 6. This case involves a petition for involuntary commitment. Yes No ✓ *(If yes, list on continuation page.)*
- 7. There are related cases: Yes No ✓ *(If yes, list on continuation page.)*
- 8. Additional information required by local rule:

- 9. There are other party members: Yes No ✓ *(If yes, list on continuation page.)*
- 10. This form has been served on all other parties and Certificate of Service is attached:
Yes No ✓

/s/ Beth Brown Nowak

Beth Brown Nowak

Attorney information shown above

STATE OF INDIANA

COUNTY OF LAKE

IN THE LAKE CIRCUIT/SUPERIOR COURT

Cause No.: _____

SHANA KONEY and RONALD KONEY
Plaintiff(s)

-v-

OTIS ELEVATOR COMPANY
Defendant(s)**S U M M O N S**

THE STATE OF INDIANA TO THE DEFENDANT

Otis Elevator Company
c/o Registered Agent CT Corporation System
150 West Market Street, Suite 800
Indianapolis, IN 46204

You have been sued by the person(s) identified as "Plaintiffs" in the Court stated above.

The nature of the suit against you is stated in the COMPLAINT which is attached to this SUMMONS. It also states the demand which the Plaintiffs had made against you.

You must either personally or by your attorney file your written answer to the COMPLAINT with the Clerk within twenty (20) days commencing the day after this SUMMONS and the COMPLAINT were personally served upon you or your agent or left for you by the Sheriff or other process server.

In the event the SUMMONS and COMPLAINT were left for you and you then receive by first class mail (not certified) a copy of the SUMMONS alone, this mailing is merely a confirmation that the SUMMONS and COMPLAINT were previously left for you. You should not consider the date on which you receive the mailed SUMMONS as the commencement date for the time period allowed for your answer. Rather, the time period allowed for your written answer commences on the date when the SUMMONS and COMPLAINT were first personally served upon you or your agent or left for you by the Sheriff or other process server.

However, if you or your agent first received the SUMMONS and the COMPLAINT by certified mail, you have twenty-three (23) days from the date of receipt to file your written answer with the Clerk.

If you fail to answer the COMPLAINT of the Plaintiffs within the times prescribed herein, judgment will be entered against you for what the Plaintiffs have demanded.

If you have a claim against the Plaintiffs arising from the same transaction or occurrence, you may be required to assert such claim in writing together with your written answer.

The following manner of service is hereby designated: **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

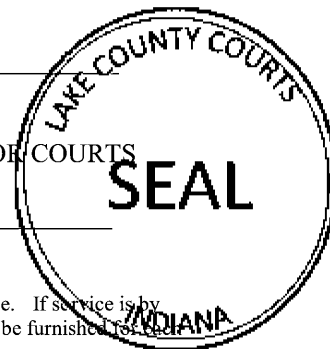
8/13/2019

Beth Brown Nowak
Attorney for Plaintiffs
Kelly Law Offices LLC
5521 West Lincoln Highway, Suite 101
Crown Point, IN 46307
Telephone: (219) 791-0606
Email: bbn@kelly-lawyers.com

Date: _____

*Lorenzo Arredondo*HONORABLE LORENZO ARREDONDO
CLERK OF THE LAKE CIRCUIT AND SUPERIOR COURTSBY: **SR**

Deputy Clerk

**PREPARATION DATA:**

All Summons are to be prepared in triplicate with the original of each to be placed in the Court file with two copies available for service. If service is by certified mail a properly addressed envelope shall be provided for each Defendant. Certified mail labels and return receipts must also be furnished for each mailing and the cause number must appear on each return receipt, which shall be returnable to the Clerk at the address of the Court.

CLERK'S CERTIFICATE OF MAILING

I hereby certify that on the _____ day of _____, 20____, I mailed a copy of this SUMMONS and a copy of the COMPLAINT to the Defendant, Otis Elevator Company, by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, requesting a return receipt, at the address furnished by the Plaintiff.

HONORABLE LORENZO ARREDONDO
CLERK OF THE LAKE CIRCUIT/SUPERIOR COURTS

Dated: _____, 20____.

By: _____
Deputy Clerk

RETURN ON SERVICE OF SUMMONS BY MAIL

I hereby certify that the attached return receipt was received by me showing that the SUMMONS and a copy of the COMPLAINT mailed to Defendant, Otis Elevator Company, as accepted by the Defendant on the _____ day of _____, 20____.

I hereby certify that the attached return receipt was received by me showing that the SUMMONS and a copy of the COMPLAINT was returned not accepted on the _____ day of _____, 20____.

HONORABLE LORENZO ARREDONDO
CLERK OF THE LAKE CIRCUIT/SUPERIOR COURTS

Dated: _____, 20____.

By: _____
Deputy Clerk

RETURN OF SERVICE OF SUMMONS BY SHERIFF

I hereby certify that I have served the within SUMMONS:

1. By delivering on _____, 20____, a copy of this SUMMONS, a copy of the COMPLAINT and all other materials filed the same date to each of the within named person(s).

2. By leaving on _____, 20____, for each of the within named person(s) _____ a copy of the SUMMONS, a copy of the COMPLAINT and all other materials filed the same date at the respective dwelling house or usual place of abode of _____ in _____, Indiana, with a person of suitable age and discretion residing within, whose usual duties or activities include prompt communication of such information to the person served, or by otherwise leaving such process thereat, and by mailing a copy of the SUMMONS without the COMPLAINT to the said named person(s) at the address listed herein.

3. This SUMMONS came to hand this date, _____, 20____. The within named _____ was not found in my bailiwick this date, _____, 20____.

ALL DONE IN LAKE COUNTY, INDIANA.

OSCAR MARTINEZ, JR
SHERIFF OF LAKE COUNTY, INDIANA

By: _____

SERVICE ACKNOWLEDGED

A copy of the within SUMMONS, a copy of the COMPLAINT and all materials filed the same dated attached thereto were received by me at _____ in _____, Indiana, on this date, _____, 20____.

Signature of Defendant

Cause Number: 45C01-1908-CT-000836

CERTIFICATE OF ISSUANCE OF SUMMONS

I hereby affirm that pursuant to Indiana Rules of Trial Procedure, I have attempted service on the following person at the following address as indicated:

Otis Elevator Company, C/O Registered Agent CT Corporation System
150 West Market Street, Suite 800, Indianapolis, IN 46204

Service was attempted by [check one]:

√ **Certified Mail, Return Receipt Requested -** (return card addressed to Kelly Law
Offices LLC.)

Tracking Number: 7019 0700 0000 0721 7395

Date Mailed: August 13, 2019

Place of Mailing: 1200 South Eagle Ridge Drive, Schererville, IN 46375

_____ **Plaintiff requested service by Sheriff** of _____ County, Indiana.
Service documents were delivered to said Sheriff on _____, with all
service fees paid.

Other

Date: August 14, 2019

/s/ **Beth Brown Nowak**
Beth Brown Nowak, Attorney for
Plaintiff, Attorney No.: 24108-64

KELLY LAW OFFICES LLC
5521 West Lincoln Highway, Suite 101
Crown Point, Indiana 46307
Telephone: (219) 791-0606
Email: bbn@kelly-lawyers.com

JRB

#31826-44

STATE OF INDIANA)
) SS: IN THE LAKE CIRCUIT/ SUPERIOR COURT
COUNTY OF LAKE) CAUSE NO. 45C01-1908-CT-000836

SHANA KONEY and RONALD KONEY,)
)
 Plaintiffs,)
v.)
)
OTIS ELEVATOR COMPANY,)
)
)
 Defendant.)

APPEARANCE BY ATTORNEY IN CIVIL CASE

Party Classification: Initiating _____ Responding X Intervening _____

1. The undersigned attorney and all attorneys listed on this form now appear in this case for the following party member(s):

OTIS ELEVATOR COMPANY

2. Applicable attorney information for service as required by Trial Rule 5(B)(2) and for case information as required by Trial Rules 3.1 and 77(B) is as follows:

Name:

**JENNIFER R. BEEGLE
MOLZAHN, REED & ROUSE, LLC
20 N. CLARK STREET, SUITE 2300
CHICAGO, ILLINOIS 60602
JRB@M2RLAW.COM**

Atty Number: **31826-44**

Address:

Phone: **312.917.1880**

Fax: **312.917.1851**

Computer Address:

3. There are other party members: Yes ___ No X (If yes, list on continuation page.)

4. If first initiating party filing this case, the Clerk is requested to assign this case the following Case Type under Administrative Rule 8(b)(3):

5. I will accept service by FAX at the noted number: Yes X No

6. This case involves support issues. Yes ___ No X (If yes, supply social security numbers for all family members on continuation page.)

7. There are related cases: Yes ___ No X (If yes, list on continuation page.)

8. This form has been served on all parties. Certificate of Service is attached: Yes X No ___

9. Additional information required by local rule:

/s/ Jennifer R. Beegle
Attorney at Law

CERTIFICATE OF SERVICE

To: Beth Brown Nowak (#24108-64)
Kelly Law Offices LLC
5521 West Lincoln Highway, Suite 101
Crown Point, IN 46307

Jennifer R. Beegle (#31826-44)
MOLZAHN, REED, ROUSE, LLC
20 N. Clark Street, Suite 2300
Chicago, IL 60602

The undersigned hereby certifies that she served the foregoing **Appearance** by mailing a copy to the attorneys of record in this matter and deposited the same in the U.S. Mail at 20 N. Clark Street, Chicago, Illinois on the **20th** day of **September, 2019**.

/s/ Jennifer R. Beegle (#31826-44)

JRB

#31826-44

STATE OF INDIANA)
) SS: IN THE LAKE CIRCUIT/ SUPERIOR COURT
COUNTY OF LAKE) CAUSE NO. 45C01-1908-CT-000836

SHANA KONEY and RONALD KONEY,)
)
 Plaintiffs,)
v.)
)
OTIS ELEVATOR COMPANY,)
)
)
 Defendant.)

MOTION FOR ENLARGEMENT OF TIME

NOW COMES Defendant, OTIS ELEVATOR COMPANY, by its attorneys, MOLZAHN, REED & ROUSE, LLC, and moves this Honorable Court for additional time within which to answer or otherwise plead to Plaintiff's Complaint for Damages.

1. On or about August 13, 2019, Plaintiffs filed the instant action in the Marion Superior Court.
2. On or about August 15, 2019, Plaintiffs served their Complaint via certified mail to be answered within twenty (20) days of receipt thereof. Therefore, OTIS ELEVATOR COMPANY'S responsive pleading to Plaintiff's Complaint would be due on or before September 4, 2019.
3. OTIS ELEVATOR COMPANY has not yet completed its investigation in to the subject incident and needs additional time prior to responding to the Complaint.
4. OTIS ELEVATOR COMPANY therefore requests additional time within which to prepare its responsive pleading.

5. This Motion is not being made for the purpose of undue delay and the parties will not be prejudiced if this Motion is granted.

WHEREFORE, Defendant, OTIS ELEVATOR COMPANY, requests it be granted additional time to and including October 11, 2019 to answer or otherwise plead to Plaintiff's Complaint or for such further relief as is deemed just and appropriate.

Respectfully submitted,

OTIS ELEVATOR COMPANY

By: Jennifer R. Beegle (#31826-44)
One of Its Attorneys

Jennifer R. Beegle (#31826-44)
MOLZAHN, REED & ROUSE, LLC
20 North Clark Street, Suite 2300
Chicago, Illinois 60602
(T): (312) 917-1880
(F): (312) 917-1851
jrb@m2rlaw.com

CERTIFICATE OF SERVICE

To: Beth Brown Nowak (#24108-64)
Kelly Law Offices LLC
5521 West Lincoln Highway, Suite 101
Crown Point, IN 46307

Jennifer R. Beegle (#31826-44)
MOLZAHN, REED, ROUSE, LLC
20 N. Clark Street, Suite 2300
Chicago, IL 60602

The Undersigned hereby certifies that she served the foregoing **Motion for Enlargement of Time** by mailing a copy to the attorney of record in this matter and deposited the same in the U.S. Mail at 20 N. Clark Street, Chicago, Illinois on the **20th** day of **September, 2019**.

Jennifer R. Beegle (#31826-44)

~~JRB~~

~~#31826-44~~

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)
)

IN THE LAKE CIRCUIT/ ~~SUPERIOR~~ COURT
CAUSE NO. 45C01-1908-CT-000836

SHANA KONEY and RONALD KONEY,)
)
) Plaintiffs,)
v.)
)
OTIS ELEVATOR COMPANY,)
)
)
) Defendant.)

Filed in Open Court

September 21, 2019

LAKE CIRCUIT COURT

MM

ORDER

THIS CAUSE coming to be heard upon Motion for Enlargement of Time for Defendant, OTIS ELEVATOR COMPANY to answer or otherwise plead, due notice having been given and the Court being duly advised in the premises:

IT IS HEREBY ORDERED:

1. OTIS ELEVATOR COMPANY is given until October 11, 2019 to answer or otherwise plead.

ENTERED:



Judge, Lake County/Superior Court ^{MM}

LAKE CIRCUIT

Distribution to:

Beth Brown Nowak (#24108-64)
Kelly Law Offices LLC
5521 West Lincoln Highway, Suite 101
Crown Point, IN 46307

Jennifer R. Beegle (#31826-44)
MOLZAHN, REED, ROUSE, LLC
20 N. Clark Street, Suite 2300
Chicago, IL 60602

Filed in Open Court

STATE OF INDIANA) OCT 10 2019 IN THE LAKE CIRCUIT COURT
COUNTY OF LAKE) SS *Lorenzo Arredondo* CROWN POINT, INDIANA
CLERK LAKE CIRCUIT COURT

SHANA KONEY and RONALD KONEY
Plaintiff(s)

vs.

CAUSE NO. 45C01-1908-CT-00836

OTIS ELEVATOR COMPANY
Defendant.

Order Setting Initial Status Conference

This matter is scheduled for Initial Status Conference on the 12th day of February
2019 at 11:30 (A)AM/PM.

Per Lake County Local Rule 9, "(e)ach party shall be represented at this conference by an attorney familiar with the case, who shall be prepared to discuss and enter into stipulations concerning:

(1) the exchange of lists of witnesses known to have knowledge of the facts supporting the pleadings. The parties thereafter shall be under a continuing obligation to advise opposing parties of other witnesses as they become known;

(2) the exchange of all documents, and any other evidence reasonably available, contemplated for use in support of the pleadings;

(3) a discovery schedule;

(4) the necessity for additional conferences in complex litigation; and

(5) the necessity for amendments to the pleadings and the filing or hearing of dispositive motions."

Counsel shall also be prepared to discuss:

(A) whether there are any anticipated issues regarding claims of privilege or protection;

(B) whether there is a question of jurisdiction over any person or subject matter;

(C) whether all parties have been correctly designated and properly served;

(D) whether a third-party complaint or impleading petition is contemplated;

- (E) whether actual custodians of possibly relevant electronically stored information (ESI) have been identified;
- (F) whether a separation of claims, defenses, or issues is desirable and, if so, whether discovery should be limited to claims to be tried first; and
- (G) whether there is a probability of disposing of the case through settlement, dismissal, mediation, or other method.
- (H) stipulations regarding the name of an agreed mediator.

The attorneys appearing are instructed to bring their calendars.

CLERK: TR 72 NOTICE

SO ORDERED this 10th day of October, 2019


Hon. Marissa McDermott
Lake Circuit Judge

Distribution:

Atty B. Nowak

Atty J. Beegle

#31826-44

SECOND MOTION FOR ENLARGEMENT OF TIME

4. Since that time, the parties have been engaging in settlement negotiations to hopefully resolve the case prior to the time that responsive pleading are due. The parties continue to negotiate.

5. OTIS ELEVATOR COMPANY therefore requests additional time within which to prepare its responsive pleading.

6. This Motion is not being made for the purpose of undue delay and the parties will not be prejudiced if this Motion is granted.

7. This Motion is agreed.

WHEREFORE, Defendant, OTIS ELEVATOR COMPANY, requests it be granted additional time to and including December 20, 2019 to answer or otherwise plead to Plaintiff's Complaint or for such further relief as is deemed just and appropriate.

Respectfully submitted,

OTIS ELEVATOR COMPANY

By: Jennifer R. Beegle (#31826-44)
One of Its Attorneys

Jennifer R. Beegle (#31826-44)
MOLZAHN, REED & ROUSE, LLC
20 North Clark Street, Suite 2300
Chicago, Illinois 60602
(T): (312) 917-1880
(F): (312) 917-1851

CERTIFICATE OF SERVICE

To:

Beth Brown Nowak (#24108-64)
Kelly Law Offices LLC
5521 West Lincoln Highway, Suite 101
Crown Point, IN 46307

Jennifer R. Beegle (#31826-44)
MOLZAHN, REED, ROUSE, LLC
20 N. Clark Street, Suite 2300
Chicago, IL 60602

The Undersigned hereby certifies that she served the foregoing **Second Motion for Enlargement of Time** by mailing a copy to the attorney of record in this matter and deposited the same in the U.S. Mail at 20 N. Clark Street, Chicago, Illinois on the 18th day of October, 2019.

By: /s/ Jennifer R. Beegle (#31826-44)

~~JRB~~

~~#31826-44~~

STATE OF INDIANA)
) SS: IN THE LAKE CIRCUIT/ ~~SUPERIOR~~ COURT
COUNTY OF LAKE) CAUSE NO. 45C01-1908-CT-000836

SHANA KONEY and RONALD KONEY,)

Plaintiffs,)

v.)

OTIS ELEVATOR COMPANY,)

Defendant.)

Filed in Open Court

October 21, 2019

LAKE CIRCUIT COURT
MM

ORDER

THIS CAUSE coming to be heard upon Second Motion for Enlargement of Time for Defendant, OTIS ELEVATOR COMPANY to answer or otherwise plead, due notice having been given and the Court being duly advised in the premises:

IT IS HEREBY ORDERED:

1. OTIS ELEVATOR COMPANY is given until December 20, 2019 to answer or otherwise plead.

ENTERED:


MM

Judge, ~~Lake County~~/Superior Court

LAKE CIRCUIT

Distribution to:

Attorney for Plaintiffs

Beth Brown Nowak (Atty #24108-64)
KELLY LAW OFFICES LLC
5521 West Lincoln Highway, Suite0101
Crown Point, IN 46307
P: (219) 791-0606
F: (219) 322-6675

Attorney for Defendant

Jennifer R. Beegle (Atty # 31826-44)
MOLZAHN, REED & ROUSE, LLC
20 North Clark Street, Suite 2300
Chicago, IL 60602-5002
P: (312) 917-1880
F: (312) 917-1851
jrb@2rlaw.com

#31826-44

AGREED THIRD MOTION FOR ENLARGEMENT OF TIME

4. Since that time, the parties have been engaging in settlement negotiations to hopefully resolve the case prior to the time that responsive pleading are due. The parties continue to negotiate.

5. Recently, it was learned that Plaintiff's workers compensation matter will not be concluded until February at the earliest.

6. The parties have agreed to postpone the deadline upon which the initial responsive pleading is due

7. OTIS ELEVATOR COMPANY therefore requests it be granted until March 1, 2020 to file its responsive pleading.

8. This Motion is not being made for the purpose of undue delay and the parties will not be prejudiced if this Motion is granted.

9. This Motion is agreed.

WHEREFORE, Defendant, OTIS ELEVATOR COMPANY, requests it be granted additional time to and including March 1, 2020 to answer or otherwise plead to Plaintiff's Complaint or for such further relief as is deemed just and appropriate.

Respectfully submitted,

OTIS ELEVATOR COMPANY

By: Jennifer R. Beegle (#31826-44)
One of Its Attorneys

Jennifer R. Beegle (#31826-44)
MOLZAHN, REED & ROUSE, LLC
20 North Clark Street, Suite 2300
Chicago, Illinois 60602
(T): (312) 917-1880
(F): (312) 917-1851

CERTIFICATE OF SERVICE

To: **Attorney for Plaintiffs**

Beth Brown Nowak (Atty #24108-64)
KELLY LAW OFFICES LLC
5521 West Lincoln Highway, Suite0101
Crown Point, IN 46307
P: (219) 791-0606
F: (219) 322-6675
bbn@kelly-lawyer.com

Attorney for Defendant

Jennifer R. Beegle (Atty # 31826-44)
MOLZAHN, REED & ROUSE, LLC
20 North Clark Street, Suite 2300
Chicago, IL 60602-5002
P: (312) 917-1880
F: (312) 917-1851
jrb@2rlaw.com

The Undersigned hereby certifies that she served the foregoing **Third Motion for Enlargement of Time** by mailing a copy to the attorney of record in this matter and deposited the same in the U.S. Mail at 20 N. Clark Street, Chicago, Illinois on the 4th day of November, 2019.

By: /s/ Jennifer R. Beegle (#31826-44)

~~JRB~~

~~#31826-44~~

STATE OF INDIANA)
) SS: IN THE LAKE CIRCUIT/~~SUPERIOR~~ COURT
COUNTY OF LAKE) CAUSE NO. 45C01-1908-CT-000836

SHANA KONEY and RONALD KONEY,)

Plaintiffs,)

v.)

OTIS ELEVATOR COMPANY,)

Defendant.)

Filed in Open Court

November 5, 2019

LAKE CIRCUIT COURT

MM

ORDER

THIS CAUSE coming to be heard upon the Agreed Third Motion for Enlargement of Time for Defendant, OTIS ELEVATOR COMPANY to answer or otherwise plead, due notice having been given and the Court being duly advised in the premises: **The motion is GRANTED.**

IT IS HEREBY ORDERED:

1. OTIS ELEVATOR COMPANY is given until March 1, 2020 to answer or otherwise plead.

The Feb 12, 2020 status conf is VACATED and will be re-set by separate order.

ENTERED:



MM

Judge, Lake County/Superior Court

LAKE CIRCUIT

Distribution to:

Attorney for Plaintiffs

Beth Brown Nowak (Atty #24108-64)
KELLY LAW OFFICES LLC
5521 West Lincoln Highway, Suite0101
Crown Point, IN 46307
P: (219) 791-0606
F: (219) 322-6675

Attorney for Defendant

Jennifer R. Beegle (Atty # 31826-44)
MOLZAHN, REED & ROUSE, LLC
20 North Clark Street, Suite 2300
Chicago, IL 60602-5002
P: (312) 917-1880
F: (312) 917-1851
jrb@2rlaw.com

STATE OF INDIANA)
)SS: IN THE LAKE CIRCUIT COURT
COUNTY OF LAKE) CROWN POINT, INDIANA

SHANA KONEY and RONALD KONEY,
Plaintiff/Petitioner,

CAUSE NO. 45C01-1908-CT-00836

vs.

OTIS ELEVATOR COMPANY,
Defendant/Respondent.

Filed in Open Court

NOV 12 2019

NOTICE OF HEARING

Lorenzo Aredondo
CLERK LAKE CIRCUIT COURT

The Court, now sets this matter for status conference.

The clerk is directed to serve this Notice of Hearing to all counsel and/or pro se parties of record.

This matter is set for **MARCH 24, 2020 at 10:30 AM.**

CLERK: TR 72 NOTICE

SO ORDERED 11/12, 2019

Maurice J. McDermott
LAKE CIRCUIT COURT JUDGE

Distribution:

B. Nowak

J. Beegle

SHANA KONEY and RONALD KONEY,)
)
 Plaintiffs,)
)
 vs.) Cause Number: 45C01-1908-CT-000836
)
 OTIS ELEVATOR COMPANY,)
)
 Defendant.)

Plaintiffs, **Shana Koney and Ronald Koney**, by counsel, for their Motion to Continue the Status Conference set for February 12, 2020, at 11:30 a.m., state:

- 1

WHEREFORE, Plaintiffs request that the Status Conference currently set for February 12, 2020, be reset for a date after Defendant, Otis Elevator Company's answer is due on March 1, 2020, and for all other just and proper relief.

/s/ Beth Brown Nowak

Beth Brown Nowak, Attorney for
Plaintiffs, Atty. No.: 24108-64

KELLY LAW OFFICES LLC
5521 West Lincoln Highway
Suite 101
Crown Point, Indiana 46307
Telephone: (219) 791-0606
Email: bbn@kelly-lawyers.com

CERTIFICATE OF SERVICE

I certify that on November 26, 2019, I electronically filed the foregoing document using the Indiana E-Filing System (IEFS) and that the foregoing pleading or paper was made upon each party or attorney of record via the Indiana E-Filing System.

Kelly Law Offices LLC

By: /s/ Beth Brown Nowak

5521 West Lincoln Highway, Suite 101
Crown Point, Indiana 46307
Telephone: (219) 791-0606

STATE OF INDIANA)

) SS:

IN THE LAKE CIRCUIT COURT
CROWN POINT, INDIANA

COUNTY OF LAKE)

SHANA KONEY and RONALD KONEY,)

Plaintiffs,)

VS.)

Cause Number: 45C01-1908-CT-000836

OTIS ELEVATOR COMPANY,)

Defendant.)

Filed in Open Court

December 18, 2019

LAKE CIRCUIT COURT

MM

ORDER

Plaintiffs, Shana Koney and Ronald Koney, having filed their Motion to Continue the Status Conference set for February 12, 2020, at 11:30 a.m., and the Court being duly advised,

now **CONTINUES** the Status Conference set for February 12, 2020, at 11:30 a.m., and

RESETS a Status Conference for **March 24, 2020**, 2020, at

10:30

a.m./p.m.

SO ORDERED this December 18, 2019 day of _____, 2019.

Maurice P. Derrutt
MM

JUDGE, Lake Circuit Court

Distribution:

Beth Brown Nowak

Jennifer R. Beegle

#31826-44

SHANA KONEY and RONALD KONEY,)
)
 Plaintiffs,)
 v.)
)
 OTIS ELEVATOR COMPANY,)
)
)
 Defendant.)

MOTION TO ATTEND STATUS CONFERENCE TELEPHONICALLY

NOW COMES Defendant, OTIS ELEVATOR COMPANY, by its attorneys, MOLZAHN, REED & ROUSE, LLC, and requests this Honorable Court for leave to attend the upcoming status conference telephonically and in support thereof, states as follows:

1. This case arises out of an elevator incident that occurred on August 2, 2018 at the Lake County Juvenile Center.
2. Plaintiff's counsel and Otis have been waiting for settlement on the corresponding worker's compensation matter before attempting resolution of the instant matter.
3. For this reason, Otis requested a third enlargement of time prior to filing its responsive pleading.
4. The case has a status conference on March 24, 2020 at 10:30 am.
5. The parties plan to proceed with the litigation as the worker's compensation matter has not been concluded.
6. Counsel for Otis is unavailable to attend the March 24, 2020 status hearing in person due to a previously planned vacation.

7. Counsel for Otis requests leave to attend the status hearing telephonically or in the alternative, requests a short continuance of the status conference.

8. Plaintiff's attorney has no objection to this motion.

WHEREFORE, Defendant, OTIS ELEVATOR COMPANY, respectfully requests leave to attend the March 24, 2020 status conference telephonically or in the alternative, requests a short continuance of the status conference or for such further relief as is deemed just and appropriate.

Respectfully submitted,

OTIS ELEVATOR COMPANY

By: Jennifer R. Beegle (#31826-44)
One of Its Attorneys

Jennifer R. Beegle (#31826-44)
MOLZAHN, REED & ROUSE, LLC
20 North Clark Street, Suite 2300
Chicago, Illinois 60602
(T): (312) 917-1880
(F): (312) 917-1851
jrb@m2rlaw.com

CERTIFICATE OF SERVICE

To: **Attorney for Plaintiffs**
Beth Brown Nowak (Atty #24108-64)
KELLY LAW OFFICES LLC
5521 West Lincoln Highway, Suite 0101
Crown Point, IN 46307
P: (219) 791-0606
F: (219) 322-6675
bbn@kelly-lawyer.com

Attorney for Defendant
Jennifer R. Beegle (Atty # 31826-44)
MOLZAHN, REED & ROUSE, LLC
20 North Clark Street, Suite 2300
Chicago, IL 60602-5002
P: (312) 917-1880
F: (312) 917-1851
jrb@2rlaw.com

The Undersigned hereby certifies that she served the foregoing **Motion to Attend Status Conference Telephonically** via the Court's electronic filing system to the attorney of record in this matter and deposited the same in the U.S. Mail at 20 N. Clark Street, Chicago, Illinois on the 18th day of February, 2020.

By: /s/ Jennifer R. Beegle (#31826-44)

~~JRB~~

~~#31826-44~~

STATE OF INDIANA)
) SS: IN THE LAKE CIRCUIT/~~SUPERIOR~~ COURT
COUNTY OF LAKE) CAUSE NO. 45C01-1908-CT-000836

SHANA KONEY and RONALD KONEY,)

Plaintiffs,)

v.)

OTIS ELEVATOR COMPANY,)

Defendant.)

Filed in Open Court

February 26, 2020

LAKE CIRCUIT COURT
MM

ORDER

THIS CAUSE coming to be heard upon the Motion to Attend Status Conference Telephonically for Defendant, OTIS ELEVATOR COMPANY, due notice having been given and the Court being duly advised in the premises:

IT IS HEREBY ORDERED:

 X OTIS ELEVATOR COMPANY's Motion is granted.

 OTIS ELEVATOR COMPANY's Motion is denied.

 X The status hearing is ~~entered and~~ continued to JUNE 16 , 2020 at
11:30 a.m./p.m.

ENTERED:



Judge, Lake County/~~Superior~~ Court

LAKE CIRCUIT

Distribution to:

Attorney for Plaintiffs

Beth Brown Nowak (Atty #24108-64)
KELLY LAW OFFICES LLC
5521 West Lincoln Highway, Suite0101
Crown Point, IN 46307
P: (219) 791-0606
F: (219) 322-6675

Attorney for Defendant

Jennifer R. Beegle (Atty # 31826-44)
MOLZAHN, REED & ROUSE, LLC
20 North Clark Street, Suite 2300
Chicago, IL 60602-5002
P: (312) 917-1880
F: (312) 917-1851
jrb@2rlaw.com

STATE OF INDIANA)
) SS: IN THE LAKE CIRCUIT COURT
COUNTY OF LAKE) CROWN POINT, INDIANA

SHANA KONEY and RONALD KONEY,)
)
 Plaintiffs,)
)
 vs.) Cause Number: 45C01-1908-CT-000836
)
SUBURBAN ELEVATOR CO.,)
)
 Defendant.)

FIRST AMENDED COMPLAINT

Count I

Plaintiffs, **Shana and Ronald Koney**, by counsel, for Count I of their Complaint against the Defendant, Suburban Elevator Co., state:

1. At all relevant times, Plaintiffs, Shana Koney and Ronald Koney were citizens and residents of Valparaiso, Indiana.
2. Suburban Elevator Co. is a foreign for-profit corporation doing business in Indiana.
3. On August 2, 2018, there existed a building located at 2600 W. 93rd Ave., Crown Point, Indiana 46307, in which Lake County Community Corrections operated.
4. On that date, Suburban Elevator Co. operated, managed, maintained, repaired and controlled the automatic elevator located on the premises.
5. On that date, Plaintiff Shana Koney was lawfully on the premises acting in the course and scope of her employment with Lake County and Lake County Community Corrections.

6. On that date, while Plaintiff Shana Koney was a passenger, the automatic elevator malfunctioned and did not operate properly, creating a dangerous condition.

7. Defendant Suburban Elevator Co. knew or should have known of the condition of the elevator and knew or should have known it was a hazardous condition.

8. Defendant Suburban Elevator Co. had direct or constructive notice of the dangerous and hazardous condition.

9. Suburban Elevator Co., by and through its agents and/or employees, failed to act in a reasonable manner and were negligent and/or willful and wanton, causing severe and permanent injuries to Shana.

10. As a direct and proximate result of Defendant's negligence and/or willful and wanton acts or omissions, Shana sustained severe and permanent injuries.

11. As a proximate result of Defendant's negligence and/or willful and wanton acts or omissions, Shana suffered permanent and severe personal injuries, has incurred medical expenses and will continue to incur additional medical expenses for the foreseeable future, suffered and will continue to suffer physical pain, mental suffering, disability, disfigurement, terror, fright, humiliation, loss of enjoyment of life, has lost earnings from her employment and sustained an impairment of her ability to earn wages in the future, and has sustained other permanent injuries and damages of a personal and pecuniary nature.

WHEREFORE, Plaintiffs, **Shana Koney and Ronald Koney**, respectfully request judgment in their favor and against the Defendant, Suburban Elevator Co., for compensatory

and punitive damages, for the costs of this action, prejudgment interest, and for all other just and proper relief.

/s/ Beth Brown Nowak

Beth Brown Nowak, Attorney for
Plaintiffs, Atty. No.: 24108-64

Count II

Plaintiffs, **Shana and Ronald Koney**, by counsel, for Count II of their Complaint against the Defendant, Suburban Elevator Co., state the following:

12. Plaintiffs incorporate by reference paragraphs 1-11 of Count I of their Complaint as and for paragraph 12 of Count II of their Complaint.

13. At all relevant times, the elevator was under the exclusive care, control and/or management of Suburban Elevator Co.

14. On August 2, 2018, while a passenger in the elevator, Shana Koney, was under the exclusive care, control and/or management of Suburban Elevator Co.

15. In the normal course of events, an automatic elevator does not suddenly drop to the ground abruptly in a free-fall, all while under the care, control and/or management of Suburban Elevator Co.

16. As a direct and proximate result of the foregoing acts and/or omissions, Shana sustained severe and permanent injuries.

17. As a proximate result of the foregoing acts and/or omissions, Shana suffered permanent and severe personal injuries, has incurred medical expenses and will continue to incur additional medical expenses for the foreseeable future, suffered and will continue to suffer physical pain, mental suffering, disability, disfigurement, terror, fright, humiliation, loss of

enjoyment of life, has lost earnings from her employment and sustained an impairment of her ability to earn wages in the future, and has sustained other permanent injuries and damages of a personal and pecuniary nature.

WHEREFORE, Plaintiffs, **Shana Koney and Ronald Koney**, respectfully request judgment in their favor and against the Defendant, Suburban Elevator Co., for compensatory and punitive damages, for the costs of this action, prejudgment interest, and for all other just and proper relief.

/s/ Beth Brown Nowak

Beth Brown Nowak, Attorney for
Plaintiffs, Atty. No.: 24108-64

Count III

Plaintiffs, **Shana and Ronald Koney**, by counsel, for Count III of their Complaint against the Defendant, Suburban Elevator Co., state the following:

18. Plaintiffs incorporate by reference paragraphs 1-17 of Count II of their Complaint as and for paragraph 18 of Count III of their Complaint.

19. At all relevant times, Shana Koney and Ronald Koney were lawfully wedded husband and wife.

20. As a result of the negligence of the Defendant, Plaintiff Ronald Koney was denied the love, society and companionship of his wife, Shana, for an indefinite period of time.

WHEREFORE, Plaintiffs, **Shana Koney and Ronald Koney**, respectfully request judgment in their favor and against the Defendant, Suburban Elevator Co., for compensatory

and punitive damages, for the costs of this action, prejudgment interest, and for all other just and proper relief.

/s/ Beth Brown Nowak

Beth Brown Nowak, Attorney for
Plaintiffs, Atty. No.: 24108-64

KELLY LAW OFFICES LLC
5521 West Lincoln Highway
Suite 101
Crown Point, Indiana 46307
Telephone: (219) 791-0606
Email: bbn@kelly-lawyers.com

CERTIFICATE OF SERVICE

I certify that on March 19, 2020, I electronically filed the foregoing document using the Indiana E-Filing System (IEFS) and that the foregoing pleading or paper was made upon each party or attorney of record via the Indiana E-Filing System.

Kelly Law Offices LLC

By: /s/ Beth Brown Nowak

5521 West Lincoln Highway, Suite 101
Crown Point, Indiana 46307
Telephone: (219) 791-0606

STATE OF INDIANA

COUNTY OF LAKE

IN THE LAKE CIRCUIT COURT
CROWN POINT, INDIANA

Cause No.: 45C01-1908-CT-000836

SHANA KONEY and RONALD KONEY
Plaintiff(s)

-v-

SUBURBAN ELEVATOR CO.
Defendant(s)

S U M M O N S

THE STATE OF INDIANA TO THE DEFENDANT

Suburban Elevator Co.
c/o Registered Agent,
Corporation Service Company
135 North Pennsylvania Street, Suite 1610
Indianapolis, IN 46204

You have been sued by the person(s) identified as "Plaintiff" in the Court stated above.

The nature of the suit against you is stated in the COMPLAINT which is attached to this SUMMONS. It also states the demand which the Plaintiff had made against you.

You must either personally or by your attorney file your written answer to the COMPLAINT with the Clerk within twenty (20) days commencing the day after this SUMMONS and the COMPLAINT were personally served upon you or your agent or left for you by the Sheriff or other process server.

In the event the SUMMONS and COMPLAINT were left for you and you then receive by first class mail (not certified) a copy of the SUMMONS alone, this mailing is merely a confirmation that the SUMMONS and COMPLAINT were previously left for you. You should not consider the date on which you receive the mailed SUMMONS as the commencement date for the time period allowed for your answer. Rather, the time period allowed for your written answer commences on the date when the SUMMONS and COMPLAINT were first personally served upon you or your agent or left for you by the Sheriff or other process server.

However, if you or your agent first received the SUMMONS and the COMPLAINT by certified mail, you have twenty-three (23) days from the date of receipt to file your written answer with the Clerk.

If you fail to answer the COMPLAINT of the Plaintiff within the times prescribed herein, judgment will be entered against you for what the Plaintiff has demanded.

If you have a claim against the Plaintiff arising from the same transaction or occurrence, you may be required to assert such claim in writing together with your written answer.

The following manner of service is hereby designated: **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

3/20/2020

Date:

HONORABLE LORENZO ARREDONDO
CLERK OF THE LAKE CIRCUIT AND SUPERIOR COURTS
KP

BY:

Deputy Clerk

Beth Brown Nowak
Attorney for Plaintiff
Kelly Law Offices LLC
5521 West Lincoln Highway, Suite 101
Crown Point, IN 46307
Telephone: (219) 791-0606



PREPARATION DATA:

All Summons are to be prepared in triplicate with the original of each to be placed in the Court file with two copies available for service. If certified mail a properly addressed envelope shall be provided for each Defendant. Certified mail labels and return receipts must also be furnished for each mailing and the cause number must appear on each return receipt, which shall be returnable to the Clerk at the address of the Court.

CERTIFICATE OF ISSUANCE OF SUMMONS

KELLY LAW OFFICES LLC
5521 West Lincoln Highway, Suite 101
Crown Point, Indiana 46307
Telephone: (219) 791-0606
Email: bbn@kelly-lawyers.com

EXHIBIT D

STATE OF INDIANA)
) SS: IN THE LAKE CIRCUIT COURT
COUNTY OF LAKE) CROWN POINT, INDIANA

SHANA KONEY and RONALD KONEY,)
)
) Plaintiffs,
)
v.) Cause Number: 45C01-1908-CT-000836
)
SUBURBAN ELEVATOR CO.,)
)
) Defendant.
)

NOTICE OF FILING NOTICE OF REMOVAL

TO: Ms. Beth Brown Nowak, Kelly Law Offices, LLC, 5521 W. Lincoln Highway, #101,
Crown Point, IN 46307, bbn@kelly-lawyers.com

PLEASE TAKE NOTICE that on April 20, 2020, there was filed with the Clerk of the Lake Circuit Court, Crown Point, Indiana, defendant, Suburban Elevator Co.'s Notice of Filing Notice of Removal and Notice of Removal, a copy of which is herewith served upon you.

s/Michael Meyer
Michael Meyer, Esq.
TRIBLER ORPETT & MEYER, P.C.
225 W. Washington Street, Suite 2550
Chicago, Illinois 60606
(312) 201-6400
(312) 201-6401 (fax)
docket@tribler.com (email)

PROOF OF SERVICE BY ELECTRONIC MAIL

I, a non-attorney, certify that I served this Notice and the Notice of Removal by sending a copy by electronic mail to all attorneys of record on April 20, 2020.

[X] Under penalties as provided by law pursuant to ILCS
SEC 5/1-109 I certify that the statements set forth
herein are true and correct.

s/Helen White
Signature

SERVICE VIA E-MAIL WILL BE ACCEPTED AT DOCKET@TRIBLER.COM

EXHIBIT E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

SHANA KONEY and RONALD CONEY,

Plaintiffs,

v.

No.

SUBURBAN ELEVATOR CO.

Defendant.

AFFIDAVIT OF CHRIS ANDERSON

Chris Anderson, being duly sworn on oath, states that the facts set forth herein are true of my own knowledge, or where indicated as true to the best of my knowledge, information and belief, and if called upon to testify in this matter, I could and would competently testify as follows:

1. I am Secretary and Shareholder of Suburban Elevator Co.
2. Suburban Elevator Co. is incorporated in the state of Illinois and maintains its headquarters and principal place of business in the state of Illinois.

FURTHER AFFIANT SAYETH NAUGHT.



Chris Anderson
Suburban Elevator Co.

EXHIBIT F

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

SHANA KONEY and RONALD CONEY,

Plaintiffs,

v.

No.

SUBURBAN ELEVATOR CO.

Defendant.

AFFIDAVIT OF MARK C. GALASSO

Mark C. Galasso, being duly sworn on oath, states that the facts set forth herein are true of my own knowledge, or where indicated as true to the best of my knowledge, information and belief, and if called upon to testify in this matter, I could and would competently testify as follows:

1. I am an attorney for Suburban Elevator Co. in Illinois.
2. I personally spoke with Plaintiffs counsel and was advised by her that as a result of the alleged occurrence, Plaintiff Shana Koney is claiming severe injuries resulting in a claim of post-traumatic stress disorder and that Plaintiff Shana Koney claims that she has been off work as a result of her alleged injuries since the date of the alleged occurrence.

Further Affiant Sayeth Naught.



Mark C. Galasso
TRIBLER ORPETT & MEYER, P.C.
225 W. Washington Street, Suite 2550
Chicago, IL 60606
(312) 201-6400